

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

DANIEL BLACK,

Exhibit F

Plaintiff,

-vs-

Case No. 2:17-CV-00156

DAVID CLARK, et al.,

Defendants.

Examination of CAPTAIN MARK W. WITEK,
taken at the instance of the Plaintiff, under and
pursuant to the Federal Rules of Civil Procedure,
before Sarah A. Hart, RPR, RMR, Certified Realtime
Reporter, and Notary Public in and for the State of
Wisconsin, at HUSCH BLACKWELL LLP, 555 East Wells
Street, Suite 1900, Milwaukee, Wisconsin, on
May 17, 2017, commencing at 9:09 a.m. and
concluding at 9:52 a.m.

	Page 2		Page 3
1	A P P E A R A N C E S	1	* * * * *
2	PETERSON, JOHNSON & MURRAY, S.C., by	2	I N D E X
3	MR. WILLIAM F. SULTON	3	Examination By:
4	788 North Jefferson Street, 5th Floor	4	By Mr. Sulton4
5	Milwaukee, Wisconsin 53202	5	
6	appeared on behalf of the Plaintiff.	6	Exhibits Identified:
7	HUSCH BLACKWELL LLP, by	7	Exhibit 1 - Snapshot of text messages from Captain Witek's phone
8	MR. CHARLES H. BOHL	8	
9	555 East Wells Street, Suite 1900	9	Items Requested:
10	Milwaukee, Wisconsin 53202	10	
11	appeared on behalf of the Defendants.	11	
12		12	Text message re: description of Mr. Black
13		13	Disposition of Original Exhibit:
14		14	Attached to Original Transcript.
15		15	
16		16	
17		17	
18		18	
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21		21	
22		22	
23		23	
24		24	
25		25	
		Page 4	Page 5
1	TRANSCRIPT OF PROCEEDINGS	1	A Four years, maybe five.
2	(Exhibit No. 1 was marked.)	2	Q Okay. What rank did you hold before lieutenant?
3	MARK W. WITEK, called as a witness	3	A Sergeant.
4	herein, having been first duly sworn on oath, was	4	Q How long did you hold the sergeant rank?
5	examined and testified as follows:	5	A Two years maybe, three years.
6	EXAMINATION	6	Q Okay.
7	BY MR. SULTON:	7	A I was also a temporary sergeant back in 2003, also,
8	Q Good morning. My name is William Sulton. As I'm	8	just for a ten-week period to help out.
9	sure you've figured out, I represent Dan Black in	9	Q And what rank did you hold before your sergeant
10	this case.	10	rank?
11	Could you please state and spell your	11	A Deputy sheriff I.
12	name for the record.	12	Q And how long did you hold that rank?
13	A Sure. It's Mark W. Witek. M-A-R-K, W for middle.	13	A Since April 19th of '96.
14	Last name is Witek, W-I-T-E-K.	14	Q Did you hold any other rank with the Milwaukee
15	Q And what is your rank?	15	Sheriff's Department?
16	A Captain.	16	A No, sir.
17	Q Is it okay if I call you Captain Witek?	17	Q All right. How long have you been a
18	A Sure. Or Mark. Sure.	18	law-enforcement officer?
19	Q And how long have you held the rank of captain?	19	A 21 years. As of April 19th of '96.
20	A Just over two years now.	20	Q Have you worked for any other law-enforcement
21	Q All right. So that would be in 2015?	21	agency other than the Milwaukee County Sheriff's
22	A Yes. April 19th, 2015.	22	Department?
23	Q What rank did you hold before that?	23	A No, sir.
24	A Lieutenant.	24	Q I assume that when you were promoted to sergeant,
25	Q And how long did you hold that rank?	25	you had some supervisory duties?

	Page 6	Page 7
1 A Yes.		1 events; becoming shift commander for the agency,
2 Q Did you have any supervisory duties before you		2 which during off-peak hours we would be assigned
3 earned the rank of sergeant?		3 shift commanders for the whole agency to oversee
4 A No, sir.		4 the various divisions within our agency.
5 Q Can you tell me what those supervisory duties were		5 Q And what is a shift summary?
6 when you were sergeant?		6 A Just a -- we have a log and stuff that we keep the
7 A To manage the shift at approximately anywhere from		7 day's events that would go to, like, the inspector
8 15 to 17 deputies on a shift with about eight to		8 or something of -- there's one sent out every night
9 nine working a day on that shift --		9 now by our captains on our patrol division; they
10 Q And as we sit here --		10 send out a nightly report --
11 A -- oversee the shift duties.		11 Q And when you say the "day's events" --
12 Q Sure, sure.		12 A -- the day's events.
13 Anything else?		13 Q When you say "day's events," do you mean stops,
14 A No.		14 arrests, tickets?
15 Q And as we sit here today, are there any other		15 A No.
16 duties that current sergeants have that you did not		16 Q What do you mean?
17 perform?		17 A That might be in there, but I don't send that out
18 A Not that I could think of right now.		18 at my division. But the captains out at patrol do
19 Q Okay. And when you earned the rank of lieutenant,		19 send that one out.
20 I imagine that that also came with some supervisory		20 Q And as we sit here today, do you believe that the
21 duties as well, right?		21 folks that currently hold the rank of lieutenant
22 A Yes. Yeah. It became a little more administrative		22 perform duties other than what you performed when
23 stuff.		23 you were lieutenant?
24 Q Can you describe that for me?		24 A No, I don't think so. I think they're about the
25 A Creating shift summaries and stuff, the day's		25 same.
	Page 8	Page 9
1 Q Okay. And then when you earned the rank of		1 Q And were those duties assigned by the sheriff?
2 captain, I assume that came with yet more		2 A Yeah. That's what he wants, yes. So I guess yes.
3 supervisory duties and functions?		3 Q Okay. And can you tell me about your conversation
4 A Yeah. Now I oversee the whole division at the		4 with Inspector Bailey?
5 airport, the airport division. I'm responsible for		5 A Yeah. It was a very brief conversation on the
6 all three shifts, all the duties at the airport		6 phone. He called my phone; I was still at home
7 right now. I oversee all of it.		7 getting ready to come in. He told me that -- he
8 Q Okay. And you've been doing that for about two		8 might have asked if I was going in; I said, yes.
9 years, right?		9 Because Inspector Bailey couldn't be there that
10 A Just over two years now, yes.		10 day, okay? Whatever arrangements he had, he
11 Q Do you understand sort of the gist of this lawsuit		11 couldn't be there. So I said, yes, I was getting
12 involving Dan Black and Sheriff Clarke?		12 ready.
13 A Yes.		13 And he told me that the sheriff was
14 Q Can you tell me how you became familiar with Dan		14 coming in and that there was a -- I can't remember
15 Black?		15 the exact wordage, but there was a problem between
16 A At the time I didn't know who he was when this		16 the sheriff and a person on a plane or something;
17 started. I just had received a phone call from the		17 there was an issue on the plane between the sheriff
18 inspector, Inspector Edward Bailey, stating that		18 and somebody. But the sheriff did not want us to
19 the sheriff -- I knew the sheriff was coming in,		19 arrest the guy, just FI him. Unless there was a
20 because it's part of my duties to meet him when he		20 problem, then we would arrest, you know, if the guy
21 flies in and out, along with -- it's usually		21 became a problem. But just FI him. And I said,
22 myself, the inspector, a sergeant, and a canine		22 okay.
23 handler are usually there. When the sheriff flies		23 Q When you said that he called your phone because you
24 out and when he flies back in, it's our duties to		24 were at home --
25 be with him at that point.		25 A Yes.

	Page 10		Page 11
1 Q -- are we talking about a cell phone? Are we 2 talking about a landline?		1 occurred, and we didn't know what. But based on 2 the phone call from Inspector Bailey, I believe, 3 and his conversation with the sheriff, that we had 4 reason to believe something had occurred.	
3 A Cell phone.		5 Q And what did you believe had occurred based on your 6 conversation with Inspector Bailey?	
4 Q Is this personal cell phone?		7 A I don't know what had occurred, but I believe that 8 possibly something that he could be arrested for, 9 the other person, because the sheriff said, don't 10 arrest him at this time.	
5 A Personal cell phone.		11 So I don't know if the person was maybe 12 impaired, disorderly. I had no idea. But it led 13 me to believe that don't arrest him at this time 14 meant something possibly criminal could have 15 happened. But the sheriff was using discretion; he 16 didn't want us to make an arrest at that time.	
6 Q Do you have a work cell phone as well?		17 Q Sure, sure.	
7 A Yes. I'm pretty sure it was my personal cell 8 phone. I should backtrack. I think it was my 9 personal cell phone that he called, yeah.		18 If I could just back up to this 19 "FI/field interview" phrase, because I'm not sure 20 that I understand it.	
10 Q Do you know if that conversation was recorded?		21 As a part of your duties as captain, do 22 you teach or train subordinates on field 23 interviews?	
11 A No, it was not recorded. My phones aren't 12 recorded.		24 A That's done through our academy.	
13 Q Sure. What is --		25 Q Have you ever taught any subordinates?	
14 A But I didn't know the person's name or anything at 15 that point. I had no idea what had occurred. The 16 sheriff's on a plane; I'm not able to talk to him. 17 Inspector Bailey, I don't know if he had ability to 18 talk to him. I have no idea.	Page 12		Page 13
19 Q And when you said "FI him," what do you mean by 20 that?		1 A No. That's all done through the Milwaukee County 2 Sheriff's Training Academy.	1 But we haven't hired deputies now -- it 2 was 13 years we haven't hired a deputy sheriff 3 until -- when was it, two years ago we hired our 4 first class in 13 years. So we hadn't had any new 5 deputies, if you follow me there.
21 A Field interview.		3 Q Is there any field-training opportunity?	6 Q Sure, sure.
22 Q And what is a field interview?		4 MR. BOHL: Object to the form of the 5 question. Do you understand it?	7 So in 2013 you hired this new class?
23 A See if -- we talk to somebody, gather some 24 information as to what happened, a reasonable -- 25 you know -- we -- my understanding is something		6 THE WITNESS: No. Field training, no. I 7 mean, do we teach it at the airport as part -- no, 8 they get all that training in the academy prior to 9 them going to another division or assigned 10 someplace. That's all done in the training 11 academy. And there's copies of the FI card in 12 there. They're standard. We all have the same 13 cards.	8 A 2015.
14 BY MR. SULTON:		14 BY MR. SULTON:	9 Q Sorry. Your math is better than my math.
15 Q Sure, sure.		15 A Yeah, two years ago. And then we perhaps got a few 16 of them, but, again, their training was all 17 provided by the training academy, our training 18 academy. And they get reassigned to the airport 19 and -- yeah, we work with the new people, yes, but, 20 I mean, we don't have a thing where we take them 21 out and teach them how to FI somebody. That's 22 already done. They should have that training prior 23 to getting to us.	19 Q Okay. That makes sense. Okay.
16 But, I mean, you're a captain at the 17 airport.		20 So you didn't have any information from 21 Inspector Bailey as to what occurred on the 22 airplane?	20 So you didn't have any information from 21 Inspector Bailey as to what occurred on the 22 airplane?
18 A Yes.		23 A No, sir.	23 A No, sir.
19 Q I assume folks come out of the academy and they're 20 assigned to, you know, a division that you control, 21 right, unit or -- for lack of a better term?		24 Q My understanding from your previous testimony was 25 that part of your job duties is to know when	24 Q My understanding from your previous testimony was 25 that part of your job duties is to know when
22 A Yeah, they do. I mean, they go to another 23 division. It's rare we get them at the airport 24 first, though. It's usually in the courts or out 25 at patrol.			

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1	Sheriff Clarke is coming in, right?	1 A No.
2	A Yes.	2 Q When is the --
3	Q So when you received this call from Inspector	3 A I usually like -- if I get there, I like to get
4	Bailey, you were getting ready to go to the	4 there -- just in my mind I can think probably
5	airport?	5 anywhere from a half hour to an hour beforehand if
6	A Yeah. Yeah. I was at home, and I think my phone	6 I can, you know, because I change into my uniform.
7	rang and it was Inspector Bailey.	7 And I don't wear my uniform home; I keep everything
8	Q How long does it take you to get from your home to	8 at work. So I change, and then I try and watch the
9	the airport?	9 flight online to see where the flight is so I know
10	A 15, 20 minutes maybe.	10 what time that plane is going to be landing.
11	Q I would assume that if it takes you 15, 20 minutes	11 Q When you say, "watch the flight," do you mean that
12	to get to the airport, that you would want to get	12 little screen that shows the airplane and where
13	there before --	13 it's traveling?
14	A Yes.	14 A Yeah, exactly, FlightAware. Yes.
15	Q -- Sheriff Clarke arrives, right?	15 Q So is it fair to say that you probably arrived at
16	A Yes.	16 the airport between 30 and 60 minutes before the
17	Q And in general, how much before do you get there?	17 flight arrived?
18	A Oh, I can't -- that varies, because if I have stuff	18 A I would say so, but I couldn't guarantee that. But
19	to do, I'll go in earlier before he arrives.	19 that's probably fair.
20	Q Sure. Do you remember on that day --	20 Q But we know for certain that you got there before
21	A No.	21 the airplane got there, right?
22	Q -- whether you got in earlier?	22 A Yes.
23	A No.	23 Q And how familiar are you with FlightAware?
24	Q Is there any way to determine when you got to the	24 A I just punch in the airline and then the flight
25	airport?	25 number and track the flight.
	Page 16	Page 17
1	Q Sure.	1 A No, I don't believe it -- no. My understanding was
2	A But my extent -- I'm not by any means a computer	2 it happened down -- I think the flight was from
3	whiz or a cell-phone person.	3 Dallas, I think. You said Chicago. I don't know
4	Q Sure, sure.	4 what Chicago had to do with this.
5	Do you know how long it takes to fly	5 Q Sure, sure. And that's what I'm trying to get at.
6	from, say, Chicago to Milwaukee?	6 How did you arrive at -- how did you
7	A If I'm guessing --	7 learn that whatever happened, happened in Dallas?
8	MR. BOHL: You don't have to guess,	8 A The sheriff said -- not the sheriff. Bailey said
9	Captain.	9 something happened on a plane. So it -- "on the
10	BY MR. SULTON:	10 plane" means it either happened in Dallas or in
11	Q Yeah, again, I'm not asking you to guess.	11 flight. And I'm guessing they were on the plane if
12	A Again, are you talking about from when they close	12 they had a conversation, because I don't think they
13	the jetway door, or are you just talking in-flight	13 would use their cell phones when they're on the
14	time? I mean, there's a difference there.	14 plane. So I believe they had to be on the plane,
15	Q Sure.	15 probably at the gate there. I'm not sure.
16	A I mean, you know, because anytime they pull the	16 I didn't ask him that. I'm just
17	jetway back and that plane is loaded, it could be	17 guessing it happened down in Dallas if that's where
18	another 20 minutes before they take off. But I	18 they -- the original flight started there.
19	would estimate, I don't know, total time maybe 40	19 Q Sure. But when you're having this conversation
20	minutes from when they close that jet-bridge door	20 with Inspector Bailey, who I believe is a superior,
21	to takeoff and landing. But I'm not sure.	21 right?
22	Q Sure. When you received this telephone call from	22 A Yes. Inspector.
23	Inspector Bailey, did you believe that whatever	23 Q So when you're having this conversation with
24	occurred on that airplane occurred in Milwaukee	24 Inspector Bailey, you didn't believe that this
25	County?	25 occurred in Wisconsin?

Page 18	Page 19
1 A No.	1 Q And we've talked about what Inspector Bailey told
2 Q If I could show you what's been marked as Exhibit 1	2 you, right?
3 here, have you seen Exhibit 1 before?	3 A Yes. I mean, we talked about it, yes.
4 A That's this one here?	4 Q Yeah. I mean today.
5 Q Yes.	5 A Okay, yes.
6 A Yes. That's my cell phone snapshot that I provided	6 Q Me and you today during this deposition talked
7 to Inspector Bailey.	7 about everything that Inspector Bailey told you,
8 Q Is this your personal cell phone?	8 right?
9 A Yes.	9 A Yes.
10 Q Can you tell me -- if you look towards the top of	10 Q Is there anything that Inspector Bailey told you
11 the page, it says, D. Clarke. Do you see that?	11 that we have not talked about?
12 A Yes.	12 A No, other than he provided me a text of what the
13 Q And that's for Sheriff David Clarke, right?	13 guy was wearing after the fact -- or a description
14 A Right.	14 of the subject, white male, thirties, wearing -- I
15 Q And the first message is, "Are you working?"	15 think he said safari hat. That was it.
16 Right?	16 Q Do you still have that text message?
17 A Yes.	17 A Yes.
18 Q And that's from David Clarke, correct?	MR. SULTON: Could you produce it?
19 A Yes.	MR. BOHL: Sure.
20 Q The second message is, "Yes, I just spoke to	20 THE WITNESS: Do you want to see it?
21 Inspector Bailey, and he informed me of what was	MR. BOHL: Not right now. We're not
22 going on."	going to go into your phone right now, but we will
23 A Correct.	produce it.
24 Q That's you, right?	24 THE WITNESS: That was the extent of my
25 A Yes.	25 conversation with Inspector Bailey prior to -- or
Page 20	Page 21
1 when this -- I seen this afterwards, because I	1 very long.
2 didn't even know I had this text until after I	2 THE WITNESS: "W/M" for white male,
3 spoke to Inspector Bailey. Because I had my phone	3 "thirties, safari hat," whatever that means, "in
4 in my hand, and then I seen I had a message on	4 coach." That's exactly what it says.
5 there.	5 BY MR. SULTON:
6 MR. SULTON: Sure. Mr. Bohl, maybe we	6 Q Is there any other message he sent you?
7 can take a break and just print it off. You would	7 MR. BOHL: "He," being Bailey or Clarke?
8 have an opportunity to look at it, and then I won't	8 BY MR. SULTON:
9 have to re-call him or anything.	9 Q Is there any other message that Bailey -- Inspector
10 MR. BOHL: Why don't you just ask him	10 Bailey sent you?
11 what it says. We'll give it to you. I just want	11 A Yeah, I got several on my phone, but from days
12 to get this over with.	12 after that and stuff. I mean --
13 THE WITNESS: White male, thirties,	13 Q Sorry, relating to Dan Black.
14 wearing a safari hat is all it says.	14 A He just says, "Copy" -- I'm sorry. I said, "Copy."
15 MR. SULTON: I mean, it's going to take,	15 And afterwards I said, "Everything's good, he's on
16 like, a second to copy this thing.	16 his way." And just a picture he sent me. That was
17 MR. BOHL: I can see the captain is	17 it.
18 following my instructions.	18 Q A picture of what?
19 THE WITNESS: Oh. Do you want me to --	19 A Just a picture. Not of like --
20 MR. BOHL: Sure. Go ahead.	20 Q Sure.
21 THE WITNESS: No, when you said, tell him	21 MR. BOHL: Does it have anything to do
22 what it said, I thought you wanted me to --	22 with this case?
23 MR. SULTON: I mean, if we take a quick	23 THE WITNESS: Just when I --
24 break and just copy it, I mean, it's going to take	24 BY MR. SULTON:
25 a minute. This deposition is not going to take	25 Q Is it like an emoji or something?

	Page 22	Page 23
1 A I guess.		1 exactly what Ed Bailey said, you know, to what
2 Q All right. Back to Exhibit 1 here, is there		2 you're reading right there.
3 anything else that you and Inspector Bailey		3 Q All right. Did you go to the gate to meet Mr. --
4 communicated?		4 Sheriff Clarke?
5 A Our conversation was brief, I think, and exactly		5 A Yes.
6 what I told you. That was it.		6 Q Tell me what happened.
7 Q Sure. So then the third message on Exhibit 1 says,		7 A When I got to work, myself, Sergeant Sajdowitz,
8 "We will meet you."		8 Karen Mills who is the canine handler, along with
9 That's also you, right?		9 her dog, Steve Paull, and Deputy Hartung went up to
10 A Right. That's just -- we're always there to meet		10 the gate, and we waited for the plane to pull up.
11 him. So I didn't want him to think -- you know,		11 Once the sheriff came off the plane, he
12 we're always there to meet him. And that's it.		12 walked up to us. I think we saluted him. I might
13 Q And this third message that says, "10-4. Just a		13 have grabbed his bag; I don't remember. We waited
14 field interview. No arrest unless he becomes an		14 I can't tell you how long, briefly, because I think
15 asshole with you guys."		15 Mr. Black came off shortly after the sheriff. And
16 MR. BOHL: Your guys.		16 I think Sergeant Sajdowitz asked the sheriff if
17 THE WITNESS: Your guys.		17 that was him, and I think the sheriff identified
18 BY MR. SULTON:		18 him as the subject. And Deputy Paull and Hartung,
19 Q "Question for him is why he said anything to me.		19 then, were going to do a field interview, and
20 Why didn't he just keep his mouth shut. Follow him		20 Sergeant Sajdowitz, myself, and Karen Mills left
21 to baggage and out the door. You can escort me to		21 with the sheriff to escort him down to the baggage
22 carousel after I point him out."		22 carousel.
23 A Correct.		23 Q And what did you do after that?
24 Q That's Sheriff Clarke, right?		24 A We went downstairs to the baggage carousel. The
25 A Yes. And pretty much that's almost, I think,		25 sheriff said he would wait outside. I asked the
	Page 24	Page 25
1 sheriff if he wanted a report. He said, no, just		1 questioned the sheriff on what he was wearing. And
2 have the deputies make daybook entries.		2 I think that was probably it. And then I think I
3 And Sergeant Sajdowitz -- I went outside		3 changed and went home.
4 with the sheriff with his bag, and he was going to		4 Q Do you know what a Terry stop is?
5 wait outside by his vehicle, which normally he'll		5 A Yeah. Reasonable suspicion, you know, to pat
6 wait inside, but that day he decided to wait		6 somebody down -- question them, pat them down.
7 outside I'm guessing, because whatever happened, he		7 Q Just so I understand, your understanding of a Terry
8 didn't want things to escalate; it was probably		8 stop is you need reasonable suspicion to pat
9 better for him to remove himself from the carousel		9 somebody down?
10 in case the subject did -- whatever the issue was		10 A Question them and pat them down, yes.
11 wouldn't escalate down in baggage. That's why I		11 Q Do you believe that a field interview is different
12 believe why he waited outside.		12 from a Terry stop?
13 So I went back inside to the carousel		13 A Yeah, I believe there was -- I believe something
14 with Karen Mills, and we waited for the sheriff's		14 had happened on the plane, okay? And the sheriff's
15 bags. We got his bags, loaded his bags, and that		15 text message questioned why he said anything to me,
16 was it.		16 why he didn't just keep his mouth shut led me to
17 Q What did you do after that?		17 believe that something kept going on. You know,
18 A Went back to the office. Deputy Paull and Hartung		18 why he didn't just keep his mouth shut, so that
19 came in there. I told them the sheriff said just		19 tells me this is going on. I don't know.
20 make daybook entries.		20 So I had reason to believe based on, you
21 Q Did you have any conversation with them about the		21 know, the sheriff's got 30-some years
22 field interview?		22 law-enforcement experience, Inspector Bailey's got,
23 A Might have been a brief conversation, but --		23 you know, 25 years, 26 years. These guys are
24 Q Do you remember it?		24 calling me telling me something happened, and they
25 A I think just that they said that the guy had		25 just wanted the guy FI'd.

	Page 26		Page 27
1	I know the sheriff has had threats on	1	A Yes.
2	planes in the past. There was one where there was	2	Q And what I want to know is -- because I'm not
3	an arrest made. There was another incident I	3	clear, right?
4	believe down in Dallas where two females weren't	4	A Okay.
5	allowed to board because there was an incident	5	Q -- whether you believe that you needed reasonable
6	involving them and the sheriff down in Dallas, and	6	suspicion to conduct a field interview or not.
7	that flight was delayed. And I got that	7	A Well, like I said, I believe I had it based on what
8	information from Inspector Bailey. And that was	8	they had told me.
9	prior to this incident. This was right after the	9	Q Sure. And I'm not saying --
10	incident down in Fort Lauderdale where the	10	A Right.
11	gentleman got to his bag and pulled out a gun and	11	Q -- did you or did you not have it. What I want to
12	started shooting people down there.	12	know is in general, right, the term "field
13	So I know the sheriff has had threats	13	interview," do you believe that as you guys use
14	made against him. So I don't know if there was a	14	that term, that means you need reasonable
15	threat made or what was said, I didn't know. But I	15	suspicion to stop somebody?
16	believe there was something that had occurred that	16	A I don't know if it's the same as, like, a Terry
17	caused the sheriff to have some concern.	17	stop reasonable suspicion. I believe that perhaps
18	Q To be clear, Inspector Bailey directed you to FI	18	either a crime was committed or may be committed,
19	Dan Black, right?	19	okay?
20	A Yes, but then so did the sheriff afterwards. But	20	Q Sure. Well, I want to make sure that we're talking
21	it first came from Inspector Bailey, yes.	21	about the same thing, okay, because I'm not sure.
22	Q Sure. Both Inspector Bailey and Sheriff David	22	You agree with me that you need to have
23	Clarke are your superiors, right?	23	probable cause to arrest somebody?
24	A Yes.	24	A Yes.
25	Q And essentially they told you what to do, right?	25	Q All right. You agree with me that you have to have
	Page 28		Page 29
1	reasonable suspicion that somebody is armed and	1	Q Let's focus on the text message, right? It's
2	dangerous in order to conduct a frisk, right?	2	broken down in four sentences. The first sentence
3	A Yes.	3	says, "Just a field interview. No arrest unless he
4	Q And you agree with me that you need reasonable	4	becomes an asshole with your guys."
5	suspicion to stop somebody to question them, right?	5	A Correct.
6	A Yes.	6	Q What about that sentence led you to believe that
7	Q And so --	7	there was reasonable suspicion that Mr. Black was
8	A Unless it's consensual and we ask somebody if we	8	planning a crime, had committed a crime, or was
9	can talk to them and that's fine, you know,	9	committing a crime?
10	consensual encounter.	10	A Something on the plane between him and --
11	Q Right. But you understood as it related to Dan	11	Q I'm saying --
12	Black that there was not consent, right?	12	A You're asking me about that one sentence, right?
13	MR. BOHL: Object to the form of the	13	Q Right. What about that one sentence?
14	question. Lacking foundation. It's vague. It's	14	A I believe that -- he's saying, "unless he becomes
15	argumentative.	15	an asshole with your guys." Does that mean he was
16	THE WITNESS: I didn't question him, so I	16	an asshole with the sheriff? I don't know. I
17	don't know.	17	wasn't on the plane, and I wasn't able to
18	BY MR. SULTON:	18	communicate with him.
19	Q Okay. But you agree with me that in order to stop	19	Q Is assholism a crime?
20	someone to question them, you need reasonable	20	A No, and we wouldn't arrest him for that either. I
21	suspicion?	21	mean, what's an asshole? If the deputies approach
22	A And I believe we had it in this case here based on	22	him and he didn't want to talk to them, might I
23	my conversation with Inspector Bailey and the	23	think somebody might be an asshole? Yeah. But is
24	sheriff's text message. Yes, I believe we had	24	that reason to arrest them? No. But if they
25	that.	25	become disorderly, you know, they start punching a

	Page 30		Page 31
1	wall, cussing out in a public place, you know,	1	something happened.
2	causing a big disturbance, then that's the	2	Q But more specifically, you believed that something
3	difference, okay? That's what I took that to mean.	3	occurred on the plane outside the state of
4	But him not wanting to talk to us,	4	Wisconsin, right?
5	that's not being an asshole, anything that we would	5	A Yes.
6	arrest somebody for. That wouldn't happen. We've	6	Q And you understand --
7	never done that, and we wouldn't do that.	7	A And according to the D.A.'s office, if it happens
8	Q If you look, again, at this text message, the --	8	on a plane, we have jurisdiction if the plane lands
9	where it says, "Question for him is why he said	9	in Milwaukee.
10	anything to me. Why didn't he just keep his mouth	10	MR. BOHL: Captain, just answer the
11	shut."	11	question.
12	Is there anything in there that suggests	12	THE WITNESS: Okay.
13	to you that Mr. Black committed a crime, was	13	BY MR. SULTON:
14	planning a crime?	14	Q Sure. Well, let's talk about that. Which district
15	A Well, I'd have to put that in with the first	15	attorney's office are we talking about?
16	sentence where it says "asshole." What happened on	16	A The Milwaukee District Attorney's Office. We've
17	that plane? Was he disorderly on the plane? You	17	had -- being at the airport for a number of years,
18	know, so I have to look at the whole thing and not	18	that's the direction that we've been given, that if
19	just the second sentence, because the first one	19	it does happen -- but then on the other hand, we've
20	tells me, okay, perhaps this guy was an asshole on	20	had D.A.s that didn't want to charge something,
21	the plane. And I don't know what that means. I	21	because it didn't -- you know, so that's --
22	couldn't communicate with the pilot, the flight	22	Q Sure. I want to talk about that, because --
23	attendants, or the sheriff. So I believe	23	MR. BOHL: Were you done with your
24	something, again, occurred on the plane, but	24	answer?
25	without being able to communicate with them --	25	THE WITNESS: I'm done with my answer,
	Page 32		Page 33
1	yeah.	1	A Yes.
2	BY MR. SULTON:	2	Q And then the deputy inspector is beneath him?
3	Q Because I want to be clear, because right now --	3	A Yes.
4	A So my understanding is yes, if it happens somewhere	4	Q And then you've got captains?
5	else and it lands in Milwaukee, because it happened	5	A Yes. We have two inspectors and I guess, like,
6	on a plane we can still deal with it there.	6	four deputy inspectors. I'm not sure.
7	We get a number of -- and stop me if you	7	Q But you're basically --
8	have to. But we get diverted flights where it	8	A Responsible for the airport division, yes, captain.
9	didn't necessarily happen in the state of Wisconsin	9	Q All right. So what I want to know is, how did you
10	but somewhere else, but it gets diverted here, and	10	learn that you had jurisdiction to deal with
11	we can take police action here, correct.	11	something that happens on an airplane? I know you
12	Q And when you say, "on the plane," you mean in the	12	said that you got it from the district attorney's
13	air?	13	office, and what I want to know is, is this a
14	A Right, or -- yes, in the air, yes.	14	memorandum or a conversation? I mean, what are we
15	Q And just so I'm clear about your role in this	15	talking about?
16	organization -- because I'm not clear -- are you	16	A No, it was just a conversation that we had. I
17	the top-ranking official at the airport?	17	think we had presented a case, I don't know, many
18	A Yes.	18	years ago.
19	Q All right.	19	Q Have you ever had any training on what your
20	A And I answer to a deputy inspector and inspector	20	jurisdiction is?
21	and the sheriff.	21	A No. But if it happens on a plane and it lands in
22	Q Okay. But my understanding is that the sheriff is	22	Milwaukee, we're taking police action.
23	the top guy?	23	If somebody assaulted you on the plane
24	A Yes.	24	and you were coming from Chicago and you were still
25	Q The inspector is beneath him?	25	over the state of Illinois, when it lands in

	Page 34		Page 35
1	Milwaukee, we're not going to make the plane go	1	A Yes.
2	back to Illinois or we're not going to not do	2	MR. BOHL: Object to the form of the
3	anything because it didn't happen here. We're not	3	question. That's obnoxious.
4	going to do that.	4	BY MR. SULTON:
5	Q Sure. But my question was --	5	Q Do you have jurisdiction to arrest someone in
6	A And I think that's the expectation.	6	La Crosse?
7	Q -- about your training.	7	A No. I wouldn't. I would inform the authorities
8	A Yes.	8	there and just make myself a good witness.
9	Q Wisconsin does require you to have 24 hours of	9	Q And how do you know that?
10	training a year, doesn't it?	10	A Because I'm a Milwaukee County sheriff's deputy. I
11	A Yes.	11	don't work in La Crosse. I'm not up there making
12	Q And I imagine that you've kept up with your	12	arrests.
13	training throughout your career?	13	Now, if we were in a pursuit and we left
14	A Yes.	14	Milwaukee County, then that changes things.
15	Q Which -- when did it begin, in the '90s?	15	Q Did you communicate with any other officers prior
16	A Yes. '96.	16	to going to the gate?
17	Q So you've had at least 24 hours of training every	17	A Yeah, Deputy Paull and Sergeant Sajdowitz. I think
18	year since the '90s?	18	I had contacted Sergeant Sajdowitz after receiving
19	A But we haven't had specific training as to when	19	a call and text message from the sheriff. Sergeant
20	a -- in regards to an aircraft coming in and -- or	20	Sajdowitz was the on-duty supervisor at the airport
21	where it departed and, you know, do we have	21	at that time, and I informed him of, you know, just
22	jurisdiction when it comes in here. Our	22	what I was told from Inspector Bailey and the text
23	understanding is yes, we do.	23	message from the sheriff.
24	Q You do know what I mean by jurisdiction, though,	24	Q Okay.
25	right?	25	A And then I -- Deputy Paull and Hartung were
	Page 36		Page 37
1	assigned, you know, to come upstairs.	1	would be in as I always am to meet the sheriff.
2	And I don't remember what their	2	Q Do you know whether your conversations with Paull
3	assignments were that day. They might have been --	3	and Hartung were recorded?
4	if we have seven to nine deputies working at the	4	A No, they weren't on the phone. This was Sergeant
5	airport, each one is responsible for certain areas.	5	Sajdowitz I spoke to on the phone.
6	We have mobile squads patrol the perimeter and the	6	Q Okay.
7	inside fence area of the airport; we have deputies	7	A So then when I got to the airport, I didn't speak
8	assigned to baggage and ticketing; we have deputies	8	to Deputy Paull, I think, prior to going up to the
9	assigned to the concourse. And so --	9	gate -- I mean, I'm sorry, I spoke to Deputy Paull.
10	Q So in general, it's -- I think you said it would be	10	And I just showed him, I said, Paull, this is the
11	you; a canine unit, which is a person and a	11	only information I know right now from the sheriff,
12	handler; and another officer. Right?	12	this is the text I got. And I showed him my text.
13	A And the inspector.	13	And I didn't speak to Deputy Hartung I
14	Q And the inspector. So it's normally those four?	14	don't believe. Maybe at the gate we might have
15	A Four.	15	talked about stuff, but I don't remember, you know.
16	Q Now, the inspector was unavailable, so you picked	16	Might not even be relevant to any of this; it might
17	up the other two deputies?	17	have just --
18	A No. We asked the other two deputies to come up	18	Q Sure. You just don't remember whether it's
19	there to conduct a field interview.	19	relevant or not?
20	Q Oh, I see. So --	20	A Yeah.
21	A So I showed Deputy Paull -- that's what I was	21	Q Is there anything about your conversations with
22	getting at. I contacted Sergeant Sajdowitz prior	22	Paull or Hartung that we haven't talked about?
23	to me coming to the airport just to tell him, hey,	23	A No. I just told him this is all I know, this is
24	this is what I was told by the inspector and a text	24	all I have. And that was just with Deputy Paull.
25	message I got from the sheriff. And I told him I	25	And, you know, I'm sure Hartung was probably aware

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<p>1 of it at this point. He was contacted I think by 2 our dispatch, and he was dispatched to go up there 3 to the gate with Deputy Paull.</p> <p>4 Originally, it might have been Deputy 5 Alex Colon that was dispatched up there. But 6 Inspector Bailey had dropped off the sheriff's car 7 earlier in the morning, because he couldn't be 8 there for the flight. So instead of sending Deputy 9 Colon, who was a second-shift deputy, up there, we 10 reassigned him to just take the sheriff's car and 11 pull it over onto the ticketing drive but the 12 baggage side.</p> <p>13 I don't know if you're familiar with our 14 airport. You have two drives; one's arrivals and 15 one's departures. So if you come in on departures, 16 on the other side of the road that's the back side 17 of baggage claim. So we normally stage the 18 sheriff's car there and have a deputy sit with his 19 car. And that's where we had Deputy Colon wait 20 with the sheriff's car while we went --</p> <p>21 Q And that's underneath?</p> <p>22 A Yes. Yes, exactly. Underneath the overhang there. 23 And the rest of us, we went upstairs.</p> <p>24 But, like I said, it's normally the 25 inspector, myself, the canine with her dog, and the</p>	<p>1 sergeant. There's usually four of us that escort 2 the sheriff in and out any time he's at the 3 airport.</p> <p>4 Q Did you direct any of the deputies as to where they 5 should conduct --</p> <p>6 A No, sir.</p> <p>7 Q -- the field interview?</p> <p>8 A No, sir.</p> <p>9 Q Now, Captain Witek; is that right?</p> <p>10 A Witek.</p> <p>11 Q Sorry. Captain Witek. Sorry.</p> <p>12 You've been a law-enforcement officer 13 for a long time, right?</p> <p>14 A Um-hmm.</p> <p>15 Q And some people are just jerks, right, and they'll 16 say mean things to law-enforcement officers just 17 because they wear the badge, right?</p> <p>18 A Yes.</p> <p>19 Q You don't always stop those people, right?</p> <p>20 A We have to have a thick skin.</p> <p>21 Q And some people are even, in Sheriff Clarke's 22 words, assholes, right?</p> <p>23 A Um-hmm. Like I said, that's not reason enough to 24 arrest them.</p> <p>25 Q Were you aware that the deputies that stopped</p>
	Page 40
<p>1 Mr. Black took his ID?</p> <p>2 A I am now. But at the time that they did, no, I 3 didn't know that.</p> <p>4 Q Is that standard protocol for a stop?</p> <p>5 A When we'll talk to somebody, we'll ask if we can 6 see their ID. Just like on traffic stops, you 7 know, if I ask a passenger, "Do you mind if I see 8 your ID," and they give us their ID, yeah. What we 9 like to do is just know who we're talking to.</p> <p>10 Q Is it standard to run a wanted or warrant check?</p> <p>11 A Yeah. When we get that information, yes.</p> <p>12 Q And you're aware that that's what happened to 13 Mr. Black?</p> <p>14 A Yes.</p> <p>15 Q Do you know where that wanted or warrant check is?</p> <p>16 A What do you mean?</p> <p>17 Q Well, when you run a wanted or warrant check, it's 18 run through a computer system, right?</p> <p>19 A Yeah. On the computer, yeah. We would have ran 20 that in the dispatch, yeah.</p> <p>21 Q And there's a record created of that being run, 22 right?</p> <p>23 A Yes, there should be, yes, with the State, yes.</p> <p>24 Q Do you know where that record is kept?</p> <p>25 A No. I mean, we don't keep a paper record of it,</p>	<p>1 no, but I'm sure you could get that from the State 2 showing that we ran it, you know, through NCIC 3 and -- in the state of Wisconsin, yes. I mean, we 4 don't print that all out, no.</p> <p>5 Q Sure. But it's possible to print it out?</p> <p>6 A Oh, yeah, definitely it is. But we don't always 7 print them out. We would be wasting paper if 8 somebody's not wanted and we don't need that. Why 9 print it just to shred it? So I don't know if 10 anything was printed that day. I don't know.</p> <p>11 Q Is that standard for a field interview to get 12 someone's ID and run a wanted or warrant check?</p> <p>13 A Yes. I would say we do that, yes.</p> <p>14 Q Did you direct any of the deputies to --</p> <p>15 A To do that?</p> <p>16 Q -- to take Mr. Black's ID and run a wanted or 17 warrant check?</p> <p>18 A No.</p> <p>19 Q Did you review any of the daybook entries from 20 Deputies Paull or Hartung?</p> <p>21 A Since this incident, I've looked at them, we 22 reviewed -- I looked at them yesterday with 23 Mr. Bohl here when we were provided the packet, 24 yeah.</p> <p>25 Q Okay. So you didn't have any reason to look at</p>

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1	them before then?	1 just the ones involved with this, but everybody
2	A I did when I -- I take that back.	2 working that day, I think. Whatever the
3	When the county auditor asked for the	3 information was, I eventually sent it to Inspector
4	information and Inspector Bailey told me to obtain	4 Bailey.
5	the daybook entries and provide him the information	5 Q Did Mr. Hart ever ask to interview you?
6	so he could send it to the county auditors, yes.	6 A Yes. But I wasn't there when he asked, so I didn't
7	Q That's the only time you looked at the daybook	7 speak with him that day. I had spoken to Inspector
8	entries?	8 Bailey stating -- telling him that there was a
9	A Yeah. Yeah. I didn't look at them that day or	9 county auditor at the airport office, but I was off
10	after that, yeah.	10 grounds, off site. And he said -- I don't remember
11	Q And presumably, that's because you had a	11 what he said, but not -- he would take care of it,
12	conversation with the deputies, right?	12 something to that effect, you know. So we
13	A Yeah. Just told them to make daybook entries, yes.	13 weren't -- all the interviews would have to go
14	Q Have you had any conversation with the county	14 through the front office is what we were told if
15	auditor's office about their investigation?	15 they wanted to speak to us; they would arrange for
16	A Yeah, I spoke to -- I don't remember -- his last	16 the interviews.
17	name I think was Hart. And that was just -- he	17 Q When you say "the front office," you mean --
18	was -- the information he wanted I don't think I	18 A The sheriff's administration office, yes.
19	was able to get him everything, because the deputy	19 Q And I assume there haven't been any such
20	was on vacation. So I told him as soon as I would	20 interviews. Right?
21	get it -- I believe that was my conversation with	21 A No. Not with the county auditors, no.
22	him -- I would send him everything.	22 Q And is that because Sheriff Clarke --
23	Q Which deputy was that?	23 A I don't know.
24	A I don't remember. We gave them everybody that was	24 Q -- made a decision?
25	working that day. They asked for everybody's, not	25 A I'm not privy to that information.

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1	Q Above your pay grade?	1 all I have.
2	A It's above my pay grade.	2 (Proceedings concluded at 9:52 a.m.)
3	Q I hear you.	3
4	It's my understanding that Inspector	4
5	Bailey has since retired?	5
6	A Yes.	6
7	Q Do you know when he retired?	7
8	A March 30th, I think. I believe it was March 30th,	8
9	but I'm not sure. I think. Of this year.	9
10	Q All right. Earlier I think you said you had talked	10
11	to a Deputy Sajdowitz?	11
12	A Sergeant Sajdowitz.	12
13	Q Sergeant Sajdowitz.	13
14	A Sajdowitz.	14
15	Q By phone?	15
16	A Yes, by phone.	16
17	Q And do you know if that call was recorded?	17
18	A No, I don't think so. I think I called him on his	18
19	personal phone. I don't remember. Because if you	19
20	call the supervisor's number and he's in the	20
21	office, deputies never answer it. So I know if I	21
22	want to get a hold of him, I'll call him on his	22
23	personal phone because they don't have agency cell	23
24	phones.	24
25	MR. SULTON: Okay. All right. That's	25

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1 STATE OF WISCONSIN)

) SS:

2 COUNTY OF MILWAUKEE)

3

4

5 I, SARAH A. HART, RPR, RMR, CRR, and
6 Notary Public in and for the State of Wisconsin, do
7 hereby certify that the above deposition was
8 recorded by me on May 17, 2017, and reduced to
9 writing under my personal direction.

10 I further certify that I am not a
11 relative or employee or attorney or counsel of any
12 of the parties, or a relative or employee of such
13 attorney or counsel, or financially interested
14 directly or indirectly in this action.

15 In witness whereof, I have hereunder set
16 my hand and affixed my seal of office at Milwaukee,
17 Wisconsin, this 24th day of May, 2017.

18

19

20

21 _____

22 Notary Public

23 In and for the State of Wisconsin

24 My commission expires: October 6, 2018

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